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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,797	06/29/2001	John Trezza	4024-4008	8282
27123	7590	04/14/2005		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER BELLO, AGUSTIN	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/896,797

Applicant(s)

TREZZA, JOHN

Examiner

Agustin Bello

Art Unit

2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/23/02, 1/27/03</u> | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> |

Continuation of Attachment(s) 6). Other: IDS: 2/19/03, 5/5/03, 6/16/03, 6/27/03, 7/19/04, .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-32 and 42-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doerr (U.S. Patent No. 5,909,294) in view of Hsu (U.S. Patent No. 5,843,799).

Regarding claims 1, 13, 14, 26, 27, 42, and 52, Doerr teaches multiple optical devices (reference numeral 102 in Figure 1), at least two of the multiple optical devices sharing a common contact defining a group (reference numeral 101 in Figure 1), each of the at least two of the multiple optical devices in the group being individually selectable relative to others in the group (e.g. via switch 104 in Figure 1), and a controller (reference numeral 104 in Figure 1), coupled to the multiple optical devices. Doerr differs from the claimed invention in that Doerr fails to specifically teach that the controller can select which of the at least two optical devices in the group will be active at a given time. However, Hsu in the same field of optical devices, teaches a controller that can select which of at least two optical devices in a group of devices will be active for a given time (Figure 4c, column 8 lines 41 – column 9 line 10). One skilled in the art would have been motivated to follow the disclosure of Hsu in the device of Doerr in order to select the amount of time that Doerr's device acted as a transmitter and the amount of time the device of Doerr acted as a receiver. Furthermore, Doerr discloses a controller for the switches, thereby suggesting the ability to select which of the two optical devices is active. Therefore, it

Art Unit: 2633

would have been obvious to one skilled in the art at the time the invention was made to include a controller as taught by Hsu in the device of Doerr which can select which of the at least two optical devices in the group will be active at a given time.

Regarding claims 2, 15, 28 Doerr further discloses that the at least two of the multiple optical devices comprise lasers (reference numeral 401 in Figure 4; column 4 lines 40-67).

Regarding claims 3, 4, 16, and 17, Doerr teaches that the lasers comprise top emitting lasers and bottom emitting lasers (reference numeral 401 in Figure 4A, column 2 lines 53-64, column 4 lines 40-56).

Regarding claims 5, 6, 18, 19, Doerr teaches that the lasers comprise distributed Bragg reflector lasers (column 4 line 40 – column 6 line 19).

Regarding claims 7, 20, 29, Doerr teaches that the at least two of the multiple optical devices comprise photodetectors (as seen in Figures 1 and 4).

Regarding claims 8, 9, 21, 22, Doerr teaches that the photodetectors comprise top and bottom receiving photodetectors (reference numeral 403 in Figure 4A; column 2 lines 53-64, column 4 lines 40-56).

Regarding claim 10 and 23, Doerr teaches that the multiple optical devices comprise lasers and photodetectors (as seen in Figures 1 and 4).

Regarding claims 11 and 24, the combination of Doerr and Hsu teaches memory configured to store activation information for the at least two optical devices (Figure 5a, column 10 lines 25-50 of Hsu).

Regarding claims 12 and 25, the combination of Doerr and Hsu teaches redundancy selection circuitry (Figure 5b; column 10 line 51 – column 11 line 19 of Hsu).

Art Unit: 2633

Regarding claims 30 and 31, the combination of Doerr and Hsu teaches that the common connection is a substrate (Figures 1-8 of Hsu).

Regarding claims 43-51, the Doerr and Hsu differs from the claimed invention in that Hsu fails to specifically teach the specific number of transmitters and receivers claimed. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the specific number of transmitters and receivers claimed, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Combination of*, 193 USPQ 8 Furthermore, the number of transmitters and receivers in the transceiver is matter of design choice.

Regarding claim 53, the combination of references and Hsu in particular teaches a programmable laser selection control (Figures 6b-8, (column 11 line 34 – column 14 line 16).

Regarding claim 54 and 55, Hsu further teaches a identifying which of the multiple optical devices is a backup for a failed optical device; deactivating the failed optical device; and activating the backup optical device (Figures 5a and 5b; column 10 line 25 – column 11 line 19).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 33-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsu (U.S. Patent No. 5,843,799).

Art Unit: 2633

Regarding claim 33, the combination of Doerr and Hsu teaches a method for creating an optical chip having redundant devices for use in an optical electronic unit comprising growing active portions of multiple optical devices on a wafer using a semiconductor material, processing the wafer to create complete optical devices, patterning the semiconductor material to create individual optical devices, grouping the devices by forming grouping trenches in the wafer around sets of at least two of the individual devices', and connecting each of the at least two devices to a control circuit such that, common data can be received by any of the at least two devices but the common data will only be handled by a device of the at least two devices in the group that is an active device (Figures 1-9c, abstract, and specification of Hsu).

Regarding claim 34, Hsu teaches storing data that identifies the device that is the active device (column 10 line 25 – column 11 line 19).

Regarding claim 35-36, 38, and 40, Hsu further teaches a identifying which of the multiple optical devices is a backup for a failed optical device; deactivating the failed optical device; and activating the backup optical device (Figures 5a and 5b; column 10 line 25 – column 11 line 19).

Regarding claim 37, Hsu teaches accessing data in a memory (Figure 5a; column 10 lines 25-50).

Regarding claims 32, 39, and 41, Hsu teaches a fusible fiber link (column 2 lines 1-26).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agustin Bello whose telephone number is (571) 272-3026. The examiner can normally be reached on M-F 8:30-6:00.

Art Unit: 2633

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AB


AGUSTIN BELLÒ
PATENT EXAMINER
3/20/05